

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:19-cr-00021
2:16-cr-00143

PAUL WILLIAM MARTIN

MEMORANDUM OPINION AND ORDER

Pending before the court is the defendant's Motion for Release Pending Appeal. [ECF No. 153].¹ A judicial officer must detain a person pending appeal unless the judicial officer finds: (1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the community if released under 18 U.S.C. § 3142(b), (c); and (2) that the appeal is not for the purpose of delay and raises substantial question of law or fact likely to result in reversal, an order for a new trial, a sentence that does not include a term of imprisonment, or a reduced sentence to a term of imprisonment

¹ The Court is not required to conduct a hearing under 18 U.S.C. § 3143. *See e.g., United States v. Stevens*, No. CR 19-350-02, 2020 WL 1888968, at *2 (E.D. Pa. Apr. 16, 2020) ("The Court did not conduct a hearing on Stevens' motion because it is not required under 18 U.S.C. §§ 3143...."); *United States v. Parry*, No. CR ELH-15-0416, 2017 WL 1386336, at *1 (D. Md. Apr. 14, 2017) ("This Memorandum Opinion addresses defendant Lori Parry's 'Motion For Release Pending Appeal'... The Motion was filed pursuant to 18 U.S.C. § 3143. No hearing is necessary to resolve the Motion.").

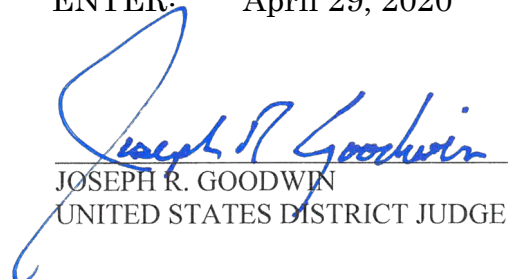
less than the total of the time already served plus the expected duration of the process. 18 U.S.C. § 3143(b).

I cannot find by clear and convincing evidence that the defendant is not likely to flee and that the defendant does not pose a danger to the community. The defendant is a seven-time convicted felon who committed the instant offense while he was under the direct supervision of this court. Accordingly, I do not need to reach whether the defendant raises a substantial question of law or fact. I therefore **DENY** the motion. [ECF No. 153].

The Court remains gravely concerned about the ongoing coronavirus pandemic, also known as COVID-19, and has considered the risks of COVID-19 with respect to the defendant. The defendant has provided no evidence of the existence of any coronavirus cases at the Carter County Detention Center, and the Carter County Detention Center has procedures to protect the staff and inmate population.

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: April 29, 2020



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE